Treasury American Rescue Plan Act Multi-Family Rehabilitation Program

1. Introduction

The Harris County Treasury ARPA Multi-Family Rehabilitation Program (**TAMFRP)** is designed to provide funds for rehabilitation and preservation of affordable multi-family rental housing developments in Harris County. TAMRFP will be administered by the Harris County Community Services Department (HCCSD).

Funding for this program is made available through the American Rescue Plan Act (ARPA) State and Local Fiscal Recovery Fund (SLFRF), which is administered by the U.S. Department of the Treasury. The primary goal of this program is to preserve and increase affordable housing in Harris County while meeting the requirements set by ARPA's SLFRF Final Rule.

A glossary of terms is included in Section 2 of these Guidelines.

1.1 Guiding Principles

The design of the **TAMFRP** is guided by the following principles:

- Emphasize integration and housing choice; mixed-use, mixed-income, or other opportunities with integrated services preferred,
- Ensure inclusion of innovative approaches that may provide new models for future replication,
- Consider opportunities not available under traditional HUD funding; take advantage of ARPA flexibility, and
- Consider siting criteria in the My Home is Here Housing assessment.

1.2 Program Design

Harris County will utilize an application or Notice of Funding Availability (NOFA) process to competitively select projects for the **TAMFRP**. The NOFA will clearly outline program and documentation requirements, application acceptance period, evaluation and selection criteria, and the award process. Examples of eligible projects to be assisted with **TAMFRP** funds include but are not limited to:

- Older, naturally occurring affordable housing (NOAH) multifamily properties that are in need of moderate to substantial rehabilitation and that are not currently subject to a Land Use Restrictive Agreement (LURA). HCCSD will impose deed restrictions on selected properties that provide for tenant income restrictions, rent limits, and a period of affordability of at least 20 years and that impose TAMFRP-required tenant protections.

- Existing affordable multifamily properties, in need of moderate to substantial rehabilitation, that previously received an award of Low-Income Housing Tax Credits (LIHTC) and are nearing the end of their 15-year compliance period or their 30–40-year extended use period.

Evaluation and Selection Criteria

Harris County seeks to prioritize properties that currently accept or will accept Permanent Supportive Housing, Housing Choice Vouchers, other housing vouchers, and other forms of rental assistance offered from the Way Home Continuum of Care, and other housing services providers.

In addition, Harris County's NOFA evaluation and selection criteria for prioritizing properties may include but is not limited to the following:

- NOAH multifamily properties in need of rehabilitation that would create new affordable housing units;
- Properties that meet target populations and set asides, especially families with extremely low income – 30% AMFI;
- Properties in the Geographic Prioritization area (outlined in section 5.2.13) that are susceptible to gentrification;
- Properties identified using the Crime Prevention Through Environmental Design (CPTED) Prioritization Index tool;
- Properties located within any of the following geographies:
    - Opportunity Zone
    - A community with an adopted Community Plan
    - A community located within a Livable Centers Planning Study area

1.3 Harris County Affordable Housing Standards

The HCCSD has adopted Affordable Housing Standards that apply to all programs that it administers. These **TAMFRP** guidelines make multiple references to the Affordable Housing Standards. Section 6.5 of the guidelines discusses the Affordable Housing Standards in more detail and notes any sections that do not apply to the **TAMFRP**. The Affordable Housing Standards can be accessed here:

https://csd.harriscountytx.gov/Pages/rfq.aspx]

1.4 American Rescue Plan Act - State and Local Fiscal Recovery Funds Final Rule and Uniform Guidance

These Guidelines are designed to comply with the American Rescue Plan Act State and Local Fiscal Recovery Funds Final Rule (Final Rule), 31 CFR 35, which was published on January 27, 2022 and can be accessed at https://www.ecfr.gov/current/title-31/subtitle-A/part-35. The Guidelines were developed using the guidance published by the U.S. Department of the Treasury regarding

ARPA SLFRF, including the Final Rule FAQs and the Affordable Housing How-To Guide, published in partnership with the Department of Housing and Urban Development (HUD).

Per the Final Rule, most of the provisions of the Uniform Guidance (2 CFR Part 200) apply to the **TAMFRP**, including the Cost Principles and Single Audit Act requirements. Below is a summary of the specific provisions of the Uniform Guidance that do and do not apply to the **TAMFRP**. The ARPA SLFRF Assistance Listing can be accessed at https://sam.gov/fal/7cecfdef62dc42729a3fdcd449bd62b8/view.

The following 2 CFR policy requirements apply to the ARPA SLFRF assistance listing:

- Subpart B, General provisions;
- Subpart C, Pre-Federal Award Requirements and Contents of Federal Awards;
- Subpart D, Post Federal Award Requirements;
- Subpart E, Cost Principles;
- Subpart F, Audit Requirements.

The following 2 CFR policy requirements also apply to the ARPA SLFRF assistance listing:

- 2 C.F.R. Part 25, Universal Identifier and System for Award Management;
- 2 C.F.R. Part 170, Reporting Subaward and Executive Compensation Information; and
- 2 C.F.R. Part 180, OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Non-procurement).

The following 2 CFR policy requirements are excluded from coverage under the ARPA SLFRF assistance listing:

- For 2 CFR Part 200, Subpart C, the following provisions do not apply to the ARPA SLFRF program:
    - 2 C.F.R. § 200.204 (Notices of Funding Opportunities);
    - 2 C.F.R. § 200.205 (Federal awarding agency review of merit of proposal);
    - 2 C.F.R. § 200.210 (Pre-award costs); and
    - 2 C.F.R. § 200.213 (Reporting a determination that a non-Federal entity is not qualified for a Federal award).
- For 2 CFR Part 200, Subpart D, the following provisions do not apply to the ARPA SLFRF program:
    - 2 C.F.R. § 200.305 (b)(8) and (9) (Federal Payment);
    - 2 C.F.R. § 200.308 (revision of budget or program plan).

2. Definitions

Acquisition – The utilization of ARPA State and Local Fiscal Recovery Funds to acquire real property. The purchase price must be consistent with applicable uniform cost principals (i.e., appraised value).

Affirmatively Furthering Fair Housing (AFFH) - AFFH is a legal requirement that federal agencies and federal grantees further the purposes of the Fair Housing Act. HUD's AFFH rule provides an effective planning approach to aid program participants in taking meaningful actions to overcome historic patterns of segregation, promote fair housing choice, and foster inclusive communities that are free from discrimination.

Affordable Housing - In general, housing for which the occupant(s) is/are paying no more than 30 percent of his or her income for gross housing costs, including utilities. Please note that some jurisdictions may define affordable housing based on other, locally determined criteria, and that this definition is intended solely as an approximate guideline or general rule of thumb.

Appraisal – An opinion of the value, issued by a licensed appraiser, of real property at a given point in time.

Builder/Contractor – (Used interchangeably) A person who contracts to construct or repair houses or buildings and/or supervises building operations.

Capital Needs Assessment (CNA) - A property inspection report that estimates the future costs of property maintenance, as well as determining the cost to repair any parts of a property that must be fixed urgently. It includes components such as plumbing, electrical, insulation, and other systems in the building.

Davis-Bacon Act of 1931 (40 USC Part 3141 et seq.) and Related Acts – The Davis-Bacon Act of 1931 and Related Acts requires that all laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance received under certain federal programs shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended. This applies to the rehabilitation and reconstruction of residential property only if such property contains not less than 8 units. Projects funded solely with ARPA SLFRF funds are not required to comply with the Davis-Bacon Act. However, the Davis-Bacon Act may apply if ARPA SLFRF funds are braided with other federal funds.

Developer - A person, partnership or corporation who buys and develops houses, buildings, and/or land.

Duplication of Benefits – The Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act) prohibits any person, business concern, or other entity from receiving financial assistance from federal funding with respect to any part of a loss resulting from a major disaster as to which he/she has already received financial assistance under any other program or from insurance or any other source.

Elevation Standards – Standards that apply to new construction or reconstruction of structures located in an area delineated as a flood hazard area or equivalent in FEMA's data source identified in 24 CFR 55.2(b)(1).

Eligible Household – Any household whose adjusted gross income does not exceed 80% of the Area Median Income for Harris County and the size of the household based on the most recently published data by HUD.

Environmental Review – The process of reviewing a project and its potential environmental impacts to determine whether it meets federal, state, and local environmental standards. Projects funded solely with ARPA SLFRF funds are not required to comply with the National Environmental Policy Act (NEPA). However, NEPA may apply if ARPA SLFRF funds are braided with other federal funds.

Family – Family means all persons living in the same household who are related by birth, marriage or adoption as further defined under 24 CFR 570.3.

Federal Register (FR) – A daily publication of the U.S. federal government that issues proposed and final administrative regulations of federal agencies.

Flood Disaster Protection Act of 1973 and Sec. 582(a) of the National Flood Insurance Reform Act of 1994 – Compliance with the legal requirements of Section 582(a) mandates that HUD flood disaster assistance that is made available in Special Flood Hazard Areas (SFHAs) may not be used to make a payment (including any loan assistance payment) to a person for repair, replacement or restoration for flood damage to any personal, residential or commercial property if: (1) the person had previously received federal flood disaster assistance conditioned on obtaining and maintaining flood insurance; and (2) that person failed to obtain and maintain flood insurance as required under applicable federal law on such property.

Flood Insurance – The Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) requires that projects receiving federal assistance and located in an area identified by FEMA as being within a Special Flood Hazard Areas (SFHA) be covered by flood insurance under the National Flood Insurance Program (NFIP). In order to be able to purchase flood insurance, the community must be participating in the NFIP. If the community is not participating in the NFIP, federal assistance cannot be used in those areas.

Floodplain – FEMA designates floodplains as geographic zones subject to varying levels of flood risk. Each zone reflects the severity or type of potential flooding in the area.

- "100-year floodplain" — the geographical area defined by FEMA as having a one percent chance of being inundated by a flooding event in any given year.
    - No new construction will occur in the "100-year floodplain."
- "500-year floodplain" — the geographical area defined by FEMA as having a 0.2 percent change of being inundated by a flooding event in any given year.
    - No project will take place in a Floodway.

Grantee – For purposes of these Guidelines, Harris County is considered the grantee of Treasury ARPA State and Local Fiscal Recovery Funds.

Green Building Standards – All rehabilitation, reconstruction, or new construction must meet an industry-recognized standard that has achieved certification under at least one of the following programs: (1) ENERGY STAR (Certified Homes or Multi-family High-Rise), (2) Enterprise Green Communities, (3) LEED (New Construction, Homes, Midrise, Existing Buildings Operations and Maintenance, or Neighborhood Development), or (4) ICC– 700 National Green Building Standard.

HAMFI or AMI - HUD Area Median Family Income is the median family income calculated by HUD for specific jurisdictions in order to determine Fair Market Rents (FMRs) and income limits for HUD programs and is also commonly referred to as "AMI."

High-Moderate Income Household – A household is high-moderate income if it has income at or below 80 percent of the AMI for Harris County and the size of the household based on the most recently published data by HUD.

Household – A household is defined as all persons occupying the same housing unit, regardless of their relationship to each other. The occupants could consist of a single family, two or more families living together, or any other group of related or unrelated persons who share living arrangements.

Housing and Urban Development Act of 1968, Section 3 – Requires program administrators ensure that training, employment, and other economic opportunities generated by federal financial assistance shall be directed to the greatest extent feasible and consistent with existing federal, state, and local laws and regulations, to low- and very low-income persons. Recipients of Section 3-covered funding ensure compliance and the compliance of their contractors/subcontractors with the Section 3 requirements, as outlined in 24 CFR 135.32.3

Housing Quality Standards (HQS) – The HQS establish certain minimum standards for buildings constructed under HUD housing programs. This includes new single-family homes and multi-family housing as outlined in 24 CFR 982.401.

Housing Unit – A house, apartment, group of rooms, or single room occupied or intended for occupancy as separate living quarters.

Improvement - A building, structure, fixture, or fence erected on or affixed to land.

Land Use Restrictive Agreement (LURA) - An agreement between a property owner and a unit of government whereby the property owner agrees to limit the use of its property in exchange for tax credits, bond financing, financing, or non-financial incentives. The limitations on usage of the property include tenant income restrictions, unit set asides to be rented to lower income tenants, and other affordability restrictions.

Moderate-Income Household – A household is moderate income if it has income at or below 65 percent of the AMI for Harris County and the size of the household based on the most recently published data by HUD.

Minimum Property Standards – The Minimum Property Standards (MPS) establish certain minimum standards for buildings constructed under HUD housing programs. This includes new single-family homes, multi-family housing, and health care type facilities as outlined in HUD's 1994 Edition Handbook (4910.1). Harris County Minimum Property Standards are contained within the Affordable Housing Standards Document.

Multi-family Project – Eight or more rental units in the property.

Notice of Funding Availability (NOFA) – A formal announcement of the availability of funding through a financial assistance program from a Federal awarding agency, Unit of Local Government, or other organization. The notice of funding availability provides information on the award, who is eligible to apply, the evaluation criteria for selection of an awardee, required components of an application, and how to submit the application.

Owner - A person, partnership or corporation who owns the record title to real property including houses, buildings, and/or land.

Preservation – Activities including acquisition and rehabilitation of housing units that are already subject a Land Use Restrictive Agreement (LURA) that includes tenant income restrictions, rent limits, and a period of affordability; such activities extend the term of the LURA.

Program Income – Generally, program income includes, but is not limited to, income from fees for services performed, the use or rental of real or personal property acquired under Federal awards, and principal and interest on loans made with Federal award funds. The Uniform Guidance outlines the requirements that pertain to program income at 2 CFR 200.307. Treasury has clarified in its ARPA SLFRF Final Rule FAQs that recipients may add program income to the Federal award. Any program income generated from ARPA SLFRF funds must be used for the purposes and under the conditions of the Federal award. Further, Final Rule FAQ 4.9 provides additional information about program income requirements applicable to certain eligible uses, and Final Rule FAQ 13.15 clarifies that only a subset of the Uniform Guidance requirements at 2 CFR 200 Subpart D (Post Federal Award Requirements) applies to recipients' use of funds in the revenue loss eligible use category. The list of applicable Subpart D requirements in Final Rule FAQ 13.15 does not include the program income requirements in 2 CFR 200.307.

Reasonable Accommodation - Under the Fair Housing Act, a reasonable accommodation is a change, exception, or adjustment to a rule, policy, practice, or service.

Reasonable Modification - Under the Fair Housing Act, reasonable modification is a structural change made to existing premises, occupied or to be occupied by a person with a disability, in order to afford such person full enjoyment of the premises.

Rehabilitation - The labor, materials, tools, and other costs of improving buildings, other than minor or routine repairs.

Subrecipient – Cities, counties, Indian tribes, local governmental agencies (including COGs), private nonprofits (including faith-based organizations), or a for-profit entity authorized under 24 CFR 570.201(o). The definition of subrecipient does not include procured vendors, private grant administrators, or contractors providing supplies, equipment, construction, or services and may be further restricted by Program rules or other guidance including applications.

Subrogation Agreement – An agreement executed by the beneficiary agreeing to repay any duplicative assistance if the beneficiary later receives other disaster assistance for the same purpose as disaster recovery funds already received.

Substantial Rehabilitation – When either of the following is true: (1) the required repairs, replacements, and improvements involve the replacement of two or more major building components, or (2) the costs of the rehabilitation exceed the greater of 15 percent (exclusive of any soft costs) of the property's replacement cost (fair market value) after completion of all required repairs, replacements, and improvements; or $16,983 per dwelling unit (adjusted annually by HUD's authorized high cost percentage); or 20% of the mortgage proceeds applied to rehabilitation expenses.

Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970, as amended (Title 49 CFR Part 24) (42 U.S.C. 4601 et seq.) (URA) – Applies to all acquisitions of real property or displacements of persons resulting from federal or federally-assisted program or projects. URA's objective is to provide uniform, fair, and equitable treatment of persons whose real property is acquired or who are displaced in connection with federally funded projects.

Weatherization - Modifying a building to reduce energy consumption and optimize energy efficiency. Typical Weatherization Assistance Program measures provided through funding from the U.S. Department of Energy address the residential building's heating and cooling mechanical systems (repair/ replace air ducts, water heaters, air conditioners, heaters); building shell (add insulation, seal the home from air, and repair/ replace doors and windows); and address electric and water measures such as installation of efficient light sources, low-flow showerheads, and replacing inefficient refrigerators with energy efficient models.

3. Purpose and Program Scope

The primary objectives of the **TAMFRP** are to preserve and increase the number of affordable, safe, and accessible housing units in the County.

3.1 Maximum Grant or Loan Amount

Maximum Grant or Loan Amount – The maximum amount to be awarded per development is $5 million. A waiver may be requested in accordance with the waiver provisions set forth in the Introduction section of the Affordable Housing Standards.

3.2 Type of Assistance that May be Provided for Rehabilitation Activities

3.2.1 Loans

Loans will be structured in compliance with the Affordable Housing Standards, Section 5.1 (Types of Developments and Forms of Financial Assistance).

3.2.2 Grants

Grants will be structured in compliance with the Affordable Housing Standards, Section 5.1 (Types of Developments and Forms of Financial Assistance), with one exception. The Affordable Housing Standards limit the entities that are eligible to receive grants. For purposes of the TAMFRP, Community Housing Development Organizations (CHDOs), other non-profit developers, and units of local government are eligible to receive grants.

3.3 Program Targets

Based on the total amount of $24,000,000 allocated to the Treasury ARPA Multi-Family Rehabilitation Program (**TAMFRP**), HCCSD has identified the following targets:

- Rehabilitation of up to 5 multi-family properties containing 50 or more units
    - Rehabilitation of 460 affordable rental units

3.4 Proposed Schedule

The following schedule will apply to the Treasury ARPA Multi-Family Rehabilitation Program (**TAMFRP**):

- Program to begin in Q1 of 2023.
- All funds committed by Dec. 31, 2024.
- All funds expended by Dec. 31, 2026 or the final expenditure deadline imposed by the U.S. Department of the Treasury, whichever is later.

3.5 Alignment with American Rescue Plan Act Eligible Activities

The **TAMFRP** is designed to comply with the regulations, including numerous flexibilities related to affordable housing development, that govern ARPA SLFRF.

These guidelines were drafted based on the following:

- Coronavirus State and Local Fiscal Recovery Funds Final Rule, which took effect on April 1, 2022;
- Coronavirus State and Local Fiscal Recovery Funds Final Rule: Overview of the Final Rule (published by the U.S. Department of Treasury in January 2022);
- Coronavirus State and Local Fiscal Recovery Funds Final Rule: Frequently Asked Questions (FAQs) (published by the U.S. Department of Treasury and last updated on June 27, 2022); and
- Affordable Housing How-To Guide: How to Use State and Local Fiscal Recovery Funds for Affordable Housing Production and Preservation (published by the U.S. Department of Treasury in July 2022).

The **TAMFRP** is designed so that all affordable housing preservation and development activities are a presumed eligible use of ARPA SLFRF funds pursuant to the following guidance published by the U.S. Department of the Treasury:

Presumption 1*: Treasury will presume that any project that is eligible to be funded under any of the following federal housing programs is an eligible use of SLFRF funds as a response to the negative economic impacts of the pandemic:*

• The National Housing Trust Fund (HTF, administered by HUD);

• The Home Investment Partnerships Program (HOME, administered by HUD);

• The Low-Income Housing Tax Credit (administered by Treasury);

• The Public Housing Capital Fund (administered by HUD);

• Section 202 Supportive Housing for the Elderly Program and Section 811

Supportive Housing for Persons with Disabilities Program (administered by

HUD);

• Project-Based Rental Assistance (PBRA) (administered by HUD); and

• Multi-family Preservation & Revitalization program (administered by USDA).

To the extent that a recipient chooses to use SLFRF funds to invest in affordable housing projects in alignment with these federal housing programs, the investment agreement must require the covered project or units to adhere to all applicable local codes, and comply, at a minimum, with the applicable federal housing program's requirements related to:

• Resident income restrictions;

• The period of affordability and related covenant requirements for assisted units;

• Tenant protections; and

• Housing quality standards.

ARPA Presumption 2: *Treasury will presume that an investment in the development, repair, or operation of any affordable rental housing unit is an eligible use of SLFRF funds to respond to the negative economic impacts of the pandemic if the unit has a limited maximum income of 65% area median income (AMI), as imposed through a covenant, land use restriction agreement, or other enforceable legal requirement for a period of at least 20 years. A jurisdiction may establish a longer period of affordability at its discretion.*

Based on recent census data, HCCSD believes that acquiring multi-family properties and renting housing units to households earning at or below 80% of AMI is related and reasonably proportional to addressing the negative economic impacts of the pandemic and otherwise meets *the final rule's requirements. Census data indicates that in 2010, only 9.66% of renters earning between $50,000 and $74,999 in annual income (which roughly aligns with the 80% AMI threshold for families of various sizes residing in the Houston-The Woodlands-Sugar Land Metropolitan Statistical Area (Houston MSA)) were housing cost-burdened. However, in 2020, the percentage of housing cost-burdened renters earning approximately 80% AMI had jumped to 23.45%. Moreover, many of these low-income renters are living in multi-family housing units that are older and are likely in need of significant repairs. According to recent census data, 42% of Harris County's housing stock was built before 1980.*

Additionally, the **TAMFRP** is designed so that any loans of ARPA SLFRF funds to support affordable housing preservation and development activities comply with the following guidance published by the U.S. Department of the Treasury:

- *Loans to fund investments in affordable housing projects. Notwithstanding the above requirements for loans with maturities beyond December 31, 2026, Treasury has determined that SLFRF funds may be used to finance certain loans that finance affordable housing investments, as it is typical for state and local governments to finance such investments through loans and because the features of these loans significantly mitigate concerns about funds being deployed for purposes of recycling funds, potentially for ineligible uses, following the SLFRF program's expenditure deadline. Specifically, under the "public health and negative economic impacts" eligible use category, recipients may use SLFRF funds to make loans to finance affordable housing projects, funding the full principal amount of the loan, if the loan and project meet the following requirements:*
    - *The loan has a term of not less than 20 years;*
    - *The affordable housing project being financed has an affordability period of not less than 20 years after the project or assisted units are available for occupancy after having received the SLFRF investment; and*
    - *For loans to finance projects expected to be eligible for the low-income housing credit (LIHTC) under section 42 of the Internal Revenue Code of 1986 (the Code),*
        - *the project owner must agree, as a condition for accepting such a loan, to waive any right to request a qualified contract (as defined in section 42(h)(6)(F) of the Code); and*
        - *the project owner must agree to repay any loaned funds to the entity that originated the loan at the time the project becomes non-compliant, including if such project ceases to satisfy the requirements to be a qualified low-income housing project (as defined in section 42(g) of the Code) or a qualified residential rental project (as defined in section 142(d) of the Code), or if such project fails to comply with any of the requirements of the extended low-income housing commitment that are described in section 42(h)(6)(B)(i)-(iv) of the Code.*

Loans that fund investments in affordable housing projects under the public health and negative economic impacts eligible use category and meet the above criteria may be considered to be expended at the point of disbursement to the borrower, and repayments on such loans are not subject to program income rules. Loan modifications are permitted if the modifications do not result in repayment of all or substantially all funds to the lender prior to the end of the affordability period. To reduce administrative complexity, the start date of the 20-year affordability covenant may conform to the start date of other covenants on the same project or units that are required by another source of federal or state funding associated with the project or units.

3.6 Residential Anti-displacement and Relocation Assistance Policy (RARAP)

The permanent displacement of homeowners, tenants, businesses, non-profit corporations, or farms is discouraged. The TAMFRP will comply with the Affordable Housing Standards, Section 1.5. (Residential Anti-displacement and Relocation Assistance Policy (RARAP)).

4. Program Administration

HCCSD will administer the **TAMFRP**.

Section 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards or “Super Circular” provide that no employee, officer, or agent shall participate in the selection, award, or administration of a contract supported by Federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when an employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in the firm selected for an award.

5. Eligibility

5.1 Eligible Activities

Eligible activities include those permissible under the ARPA SLFRF.

5.2 Eligibility Criteria

5.2.1 Location of the Project

The multi-family development shall be located entirely within the boundaries of Harris County, Texas, including areas within the City of Houston.

5.2.1.1 Flood Zone

Developments located in the floodway will be prohibited. Developments with improvements within the 100-year floodplain will also be ineligible unless the applicant can demonstrate flood mitigation practices to avoid adverse impacts to residents and to the floodplain.

5.2.2 Type of Project

Funds may be used for the rehabilitation of affordable multi-family housing units. Rehabilitation of the property may also include weatherization measures.

5.2.3 Maximum Income of Households Occupying TAMFRP-Assisted Housing Units

All multi-family housing units assisted in the **TAMFRP** must be occupied by households with a high-moderate income or lower.

5.2.4 Property Needs Assessment and Rehabilitation Scope of Work

Applicants must provide a capital needs assessment (CNA), property conditions assessment, or similar report, and scope of work outlining the rehabilitation work to be performed on the property along with a cost estimate for necessary repairs. A scope of work and cost estimate analysis must also be provided for the project. Project costs must be reasonable for projects of a similar scope. See Appendix 1 and 2 for CNA and Scope of Work and Cost Estimate Analysis Guidelines.

HCCSD may, at its discretion, determine that a property is not suitable for rehabilitation for the **TAMRFP.** Examples of properties that may be deemed unsuitable include structures that do not meet the TAMRFP guidelines or federal/ state requirements or properties that have experienced repetitive losses under FEMA's National Flood Insurance Program.

5.2.5 Affordability Period

The compliance period or affordability period represents the minimum length of time (beginning upon project completion) a recipient of federal assistance for a rental housing project must be in compliance with programmatic and County established rules and regulations regarding maximum rent limits, tenant income, and other applicable requirements. When the recipient fails to comply with the **TAMFRP** regulations during the designated compliance period, the action may trigger repayment of the direct federal subsidy to Harris County.

Projects that are presumed eligible under ARPA SLFRF Presumption 1: All assisted units must comply with the applicable federal housing program's requirements related to the period of affordability and related covenant requirements for assisted units.

Projects that are presumed eligible under ARPA SLFRF Presumption 2: All assisted units must have a minimum affordability period of 20 years.

The compliance period will begin on the date that the rehabilitation project is complete and HCCSD has conducted a final inspection demonstrating that the project complies with the Harris County Minimum Property Standards.

Tenants occupying **TAMFRP**-assisted units must be recertified annually from the start of assistance or their last recertification date and recertification should begin 60 to 90 days prior to that time. Recertification shall be completed in accordance with HOME Program rental housing recertification requirements.

Records must be kept by the owner or its representative to show that all **TAMFRP** regulations have been met. Record retention responsibilities will be described in the Harris County Regulatory Agreement. The property owner or their representative will submit all required annual reports to HCCSD on a timely basis. Annual monitoring and inspections by HCCSD will be conducted for each TAMFRP-assisted unit.

5.2.6 Minimum and Maximum Per Unit Subsidy

The federal guidance related to ARPA SLFRF does not mandate a maximum or minimum per unit subsidy for housing units that are acquired, rehabilitated, or constructed using ARPA SLFRF. Therefore, HCCSD has chosen not to set a maximum or minimum per unit subsidy for housing units that are preserved through the TAMFRP. This will allow HCCSD to preserve and create units in high-cost areas, to target deeper affordability levels in certain projects, and to provide for a longer-term affordability period in certain projects.

5.2.7 Minimum and Maximum Per Unit Set Aside

The minimum number of assisted units will be determined based on the total amount of rehabilitation costs attributable to the assisted units.

The total expenditure of **TAMFRP** funds on a project may not exceed the total rehabilitation costs attributable to the affordable housing units limited to households at or below 80% AMI for the affordability period.

5.2.8 Verification of Income

The owner of the improvement, the owner's representative, or HCCSD must verify the income of each tenant occupying a TAMFRP-assisted unit. The method used will be the Part 5 income verification.

5.2.9 Rent Limits

Projects that are presumed eligible under ARPA SLFRF Presumption 1: All assisted units must comply with the applicable federal housing program's requirements related to resident income restrictions and rent limits.

Projects that are presumed eligible under ARPA SLFRF Presumption 2: The maximum rents for **TAMFRP**-assisted rental developments shall be established by using the most current rent schedule published by the Texas Department of Housing and Community Affairs according to the income restriction associated with unit. The HCCSD Director shall reserve the right to adjust rent schedules on a project-by-project basis to best serve the low-income residents of Harris County and/or ensure project feasibility.

Rent schedules include the cost of utilities in the rent amount. All projects shall use utility allowances published by the Harris County Housing Authority unless located in another jurisdiction and then that jurisdiction's allowances will be used.

Project-Based Rental Assistance: In units receiving Federal or State project-based rental assistance in which the very low-income family pays not more than 30 percent of the family's adjusted income, the maximum rent allowable may be determined by the Federal or State program.

5.2.10 Unit Designation and Distribution

HCCSD must select "fixed" or "floating" units at the time of commitment of TAMFRP funds. When **TAMFRP**-assisted units are "fixed," the specific units that are TAMFRP-assisted are designated and never change. When **TAMFRP**-assisted units are "floating", the units that are designated as **TAMFRP**-assisted may change over time as long as the total number and type of **TAMFRP**-assisted units in the project remains constant and all assisted units remain in compliance with all applicable guidelines, regulations, and laws.

- **TAMFRP**-assisted affordable units must meet or exceed the Minimum Acceptable Standards for Residential Acquisition, Construction and Rehabilitation, as well as local code requirements.
- **TAMFRP**-assisted units must be comparable and distributed throughout every unit type.

5.2.11 Income Targeting of Rents (Multi-family Property Level)

All units funded with TAMFRP funds must serve households with incomes at or below 80% AMI. There are no additional income targets at the property level.

5.2.12 Income Targeting of Rents (Portfolio Level)

At a **TAMFRP** portfolio level, HCCSD will prioritize funding of housing units as follows:

- At least 5% of housing units will serve households with income at 30% or less of AMI as published annually for Harris County by HUD and the Texas Department of Housing and Community Affairs (TDHCA). This prioritization may be accomplished by reserving the housing units for households using Housing Choice Vouchers.
- At least 50% of housing units will serve households with incomes between 30% of AMI and 65% of AMFI.
- The remaining 45% (or less) of housing units will serve households with incomes between 65% of AMI and 80% of AMI.

These targets may be adjusted by HCCSD due to changing market conditions. The NOFA's evaluation criteria will prioritize properties meeting the above income targeting goals.

5.2.13 Geographic Prioritization

Overview

In order to ensure that this one-time grant of ARPA SLFRF funding is deployed in a manner that aligns with the strategies outlined in *My Home is Here*, Harris County's 2021 Housing Needs Assessment and 10-year Strategy, HCCSD developed a geographic prioritization model.

Since **TAMFRP** funding will be used to rehabilitate *existing* housing units, this geographic prioritization model is designed to achieve three primary goals of preserving and creating access to affordable housing units:

- **Access to Neighborhoods Safe from Hazards and Environmental Constraints** – Preserve housing units in areas where individuals and families have less exposure to hazards and environmental constraints, including pollution and threat of flooding.
- **Displacement Prevention** – Preserve housing units in areas that are undergoing or are likely to undergo higher-than-average demographic and economic change, such that low- and moderate-income households are vulnerable to displacement from their communities without intervention.
- **Access to Areas to Opportunity** – Preserve housing units in areas that provide significant access to high-performing schools and low-crime neighborhoods.

The NOFA's evaluation criteria will prioritize properties meeting the TAMRFP geographic prioritization model.

This geographic prioritization model used data related to hazard risk and environmental constraints as the primary or "base" factor in identifying priority areas. Then, this base geography was further refined to identify environmentally safe neighborhoods that either are: (1) experiencing gentrification or are likely to experience gentrification or (2) located near high-performing schools and low-crime neighborhoods.

Process

The geographic prioritization process outlined below relies on the Geographic Information System (GIS) analysis conducted for *My Home is Here*, Harris County's 2021 Housing Needs Assessment and 10-year Strategy:

1. Using the Suitability Analysis created for *My Home is Here*, prioritize geographic areas in Harris County with the least exposure to hazards and environmental protection constraints.[1] Based on the "Overall Constraints Scores" GIS layer, which classifies land on a 1 to 5 scale (5 being the most suitable), areas classified as 4 or 5 were prioritized.

[1] According to the Suitability Analysis Methodology, this analysis creates preference for land not within or further from the following hazards:

- Floodplain between the 100- and 500-year boundaries
- Large quantity Resource Conservation and Recovery Act (RCRA) hazardous waste sites
- Toxic Release Inventory (TRI) facilities
- Municipal Setting Designations (contaminated groundwater)
- Industrial districts, including parcels and buildings
- Landfills
- Urban Heat Island Effect (as measured by impervious cover development intensity)

Additionally, the analysis creates preference for land further from the following environmental sensitivities:

- Prime agricultural soils
- Streams

2. Using the most suitable geographic areas as a base, further target prioritization areas using two distinct approaches:
    a. Areas experiencing or highly susceptible to gentrification, which tend to be located in the City of Houston. Without policy intervention, gentrification often results in displacement of low-income households. Included in this approach are census tracts (considered to be a proxy for neighborhoods) experiencing gentrification in the 2000-2016 time period, plus census tracts with >75% susceptibility to gentrification but no past history of gentrification.[2]
    b. Areas identified in *My Home is Here* as highly safe with high-quality schools, low exposure to hazards, but lacking transportation accessibility. These areas tend to be located outside the City of Houston. The strategy in these areas is to diversity housing types and expand transportation options. These areas are identified using the Opportunity Cluster Analysis GIS layers presented in *My Home is Here.*
3. Evaluate the density of multi-family properties in the areas prioritized using the 2a and 2b approaches to determine which areas are likely to have a significant number of potential multi-family acquisition opportunities. Data sources for this step include multi-family property information from Moody's Analytics Commercial Real Estate (CRE) database, and the Department of Housing and Urban Development (HUD) Low-Income Housing Tax Credit (LIHTC) database. This analysis may not include all multi-family properties or properties that meet specific characteristics such as age or asset classifications; the primary purpose of this analytical step is to evaluate acquisition availability.
4. Using the geographic prioritization resulting from steps 1 through 3 as a guide, it is recommended that individual site suitability evaluation should include a final step of determining whether the property is subject to "Tier 1" hazards.[3] These hazards are impactful but can be mitigated to varying extents at the site level. Use the GIS Layers

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- Wetlands

[2] Tracts are considered to be experiencing gentrification if their sociodemographic change is greater than the county-wide change, and their change in investment is greater than the county-wide change. Sociodemographic vulnerability to gentrification is identified when a tract meets three of the four following criteria:

- Percent of low-income households is greater than the county median
- Percent of population 25+ years of age without a Bachelor's Degree or higher is greater than the county median
- Percent of non-White population is greater than the county median
- Percent of renter households is greater than the county median

Investment change is identified if one of the following criteria are met:

- Change in median monthly gross rent is greater than the county change
- Change in median home value is greater than the county change

[3] Tier 1 hazards include the 100-year floodplain, superfund sites, toxic chemical facilities required to have Clean Air Act Risk Management Plans (RMPs), significant transportation emission sources (major roads, rail spurs, and airports), and lands within coastal inundation seal level rise zones.

nested under “Hazards Tier 1 – 8 Layers” to evaluate the site’s proximity to various Tier 1 hazards.

6. Project Requirements

6.1 Eligible Applicants/ Developers

Eligible applicants include:

- For-profit developers/ borrowers
- Public housing authorities
- Units of local governments
- Not-for-profit developers/ borrower

- Applicants must be in good standing with HCCSD on all previous grants, loans, or loan commitments. In addition, Applicant must affirm that there are no defaults or negative collection actions relating to any financial obligation, either to Harris County or any other public agency or private lender.
- Applicants will have a proven track record of successful development and/or rehabilitation of at least one multifamily housing development. Applicants who lack prior development or rehabilitation experience will be required to utilize Harris County selected contractors.
- Applicants must have financial and organizational capacity to complete the project.
- Applicants, developer owners, principals, development/borrowers or general contractors may not be “debarred” or suspended.
- Applicants must demonstrate they do not currently own or control any rental housing unit(s) that have been subject to termination by a Public Housing Authority of a Housing Assistance Payment within the past three years.

6.2 Assessment of Hazard Exposures and Risks

An assessment of hazard exposure and risks is required for **TAMFRP** projects utilizing ARPA SLFRF funds. This assessment must be conducted by HCCSD’s Third-Party Cost Estimator prior to HCCSD’s commitment of any ARPA SLFRF funds to the project. The Third-Party Cost Estimator should include any recommended resiliency strategies in the final cost estimate. The Enterprise Green Communities Standards may be used as a reference.

6.2 Environmental Review

A Phase 1 ESA is required for **TAMFRP** projects utilizing ARPA SLFRF funds. However, the National Environmental Policy Act (NEPA) does not apply to Treasury’s administration of the ARPA SLFRF program.

Projects that have multiple funding sources must follow the guidance for whichever source has the most restrictive requirements related to environmental review. Additionally, all local permitting and environmental compliance laws still apply.

For example, projects that include U.S. Department of Housing and Urban Development (HUD) funds require that the environmental effects of each activity carried out with HUD funds be assessed in accordance with the provisions of HUD's regulations covering National Environmental Policy Act of 1969 (NEPA) and the related authorities listed in HUD's implementing regulations at 24 CFR Parts 50 and 58. Activities are limited pending clearance of the environmental review. These projects require that an Environment Review is completed before:

- Any commitment of HUD funds.
- Any commitment of non-Federal funds that would have an adverse environmental impact or limit the choice of alternatives for a HUD funded project.
- Any choice limiting actions are taken pending approval of the Environmental review by the Developer or any representative thereof, HCCSD, and by HUD. A choice limiting action is any action that will reduce or eliminate the opportunity to choose alternatives – i.e., acquisition of real property; leasing property; rehabilitation, repair, demolition, construction of buildings or structures; relocating buildings or structures, conversion of land or buildings/structures.

6.3 Regulatory Agreement, Deed of Trust, and Intercreditor Agreement Requirements

For all acquisition, construction, and rehabilitation projects, HCCSD shall require the execution and recordation of a Regulatory Agreement, Deed of Trust and Intercreditor Agreement prepared by the County Attorney to secure the obligations of all selected awardees. The Regulatory Agreement is prepared to ensure the affordability of the project while the Deed of Trust and Intercreditor Agreements are utilized to secure performance and recognize all creditors and their positions. Such documents shall be executed near or at the time of commitment of funds under a binding agreement and must be in place prior to any disbursement of grant funds. In all cases, HCCSD policy requires that all liens and Deeds of Trust be subordinated to the Harris County Regulatory Agreement.

6.4 Harris County Duplication of Benefits

Federal law prohibits any person, business concern, or other entity from receiving Federal funds for any part of such loss as to which he has received financial assistance under any other program or from insurance or any other source. A duplication of benefits (DOB) occurs when:

- a beneficiary receives assistance, and
- the assistance is from multiple sources, and
- the assistance amount exceeds the need for a particular recovery purpose

Under federal law DOB must be deducted from the assistance amount (the amount that will be offered for the purchase of the property or for the repair of the structure). The following are sources of funding assistance provided for structural damage and loss that are considered a duplication of benefits (DOB):

- FEMA Individual Assistance (IA)

- FEMA National Flood Insurance Program (NFIP)
- Private Insurance
- Small Business Administration (SBA)
- Other sources

Assistance received in the form of services instead of money, for property repairs from any source is not considered a duplication of benefits.

The Developer or Property Owner is obligated to certify they understand this requirement as outlined in detail within the subrogation terms included in the purchase and sale agreement, partnership agreement, loan agreement, grant agreement or any other related agreement with HCCSD.

6.5 Harris County Affordable Housing Standards

Harris County has adopted Affordable Housing Standards, which establish the minimum standard for the use of HOME Investment Partnerships Program (HOME) funds, Community Development Block Grant Program (CDBG) funds, and other HUD or federal funds, in the creation of affordable multi-family and single-family housing developments for eligible residents of Harris County. The overall goal to these guidelines and standards is to ensure the development of quality affordable housing and achieve compliance with applicable Federal, State, and local laws, regulations, and policy objectives. HCCSD, in order to ensure compliance with federal guidelines, has created the **Affordable Housing Standards: *Project Standards, Design Criteria and Underwriting Guidelines*** ("Affordable Housing Standards") to address neighborhood compatibility, site design, rental rates, compliance period, site and neighborhood standards, as well as local and state development standards, including but not limited to unit specification, public notice, and building code requirements.

The Affordable Housing Standards have been designed to include and expand on the requirements of the U.S. Department of Housing and Urban Development's (HUD) Section 8 Housing Quality Standards (HQS) and meet the requirement to establish minimum property standards under the HOME Investment Partnerships Program. The standards apply to any housing projects that receive funding through the HOME Program, the Community Development Block Grant Program, or other HCCSD funds made available for the purpose of acquiring, rehabilitating, or constructing housing.

HCCSD shall include funds in the overall project budget to cover the cost for inspection of the project construction and conduct inspections pursuant to Section 1.8 (County Project Cost) of the Affordable Housing Standards.

The requirements of the Standards apply to projects funded by the **TAMFRP** unless specifically noted in these Guidelines.

TAMRFP can also address weatherization measures to the property.

The following requirements do not apply or apply with modifications:

- 1.6 Environmental Review
- 1.13 Section 3 Requirements
- 1.14 Davis Bacon and Related Acts
- 2.1 Environmental Requirements (Requirements related to Environmental Review do not apply; all other requirements apply.)
- 5.2 Loan and Grant Limits (for **TAMFRP**) projects utilizing ARPA SLFRF funds, the maximum loan amount is $5,000,000. This maximum amount may be exceeded on case-by-case basis. Pre-development loans may be provided to CHDOs, non-profit developers, or units of local government.)
- 5.5 Minimum and Maximum Per Unit Subsidy
- 5.7 Rental and Sales Requirements

Harris County Minimum Property Standard Compliance

The Harris County Minimum Property Standards require compliance with:

- All applicable codes
- All units built before 1978 are required to comply with the lead-based paint regulations as described in 24 CFR Part 35. Units built before 1978 shall be tested by certified lead-based paint professional, if visual cracking, scaling, peeling, chipping, or loose paint is discovered during the inspection.
- Multi-Family units constructed prior to 1967 where asbestos is suspected or where reasonable evidence of asbestos exists will be required to have an asbestos certificate to certify that no hazardous materials are present, including finishes, adhesives, or nonencapsulated building materials. The discovery of any asbestos will require total and verified remediation prior to continuation of any further construction activities.
- Other Governing entities such as a Homeowner's Association, Local and Federal regulations pertaining to the particular zoning, traffic, drainage, floodplains, and fire must also be observed.
- The U.S. Department of Housing and Urban Development (HUD) Minimum Property Standards at 24 CFR 200.925 and 24 CFR 200.926.
- ADA Standards for Accessible Design found at 28 CFR Part 36.
- Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against the handicapped in any federally assisted program.
- Multi-family dwellings, as defined at 24 CFR § 100.201, to be constructed must also meet the design and construction requirements at 24 CFR § 100.205, which implement the Fair Housing Act (42 U.S.C. 3601-3619).

Additional information on minimum property standards is provided in the Harris County Affordable Housing Standards, which are available of the HCCSD website at https://csd.harriscountytx.gov/Pages/rfq.aspx.

6.6 Construction Phases

Developers/applicants will adhere to the following construction phases:

- When TAMFRP funds are used for acquisition and/or rehabilitation of a multi-family project, each TAMFRP-assisted housing unit must be brought up to the applicable property standards and meet Housing Quality Standards. The County will conduct a final inspection of the development. Common areas and units are subject to a Uniform Physical Conditions Standards inspection. Any deficiencies identified in that inspection must be corrected before final retainage is released.
- A Certificate of Compliance issued as part of the chosen standard's compliance process will be required to be submitted as proof of compliance. Multi-family homes in high wind and hurricane areas must also be built in compliance with FORTIFIED Home™ standards. These standards also apply to rehabilitation projects that fall within the HUD definition of substantial rehabilitation. The developer/borrower must comply with minimum wage requirements for construction activities, Minority/Business Enterprise (MBE), Small Business Enterprise (SBE) requirements, Affirmative Marketing, and Contractor Clearance, if applicable.
- New Housing Construction must include compliance with ONE of the following Green Standards:
  - ENERGY STAR (Certified Homes or Multifamily High-Rise);
  - Enterprise Green Communities;
  - LEED (New Construction, Homes, Midrise, Existing Buildings Operations and Maintenance, or Neighborhood Development); or
  - ICC–700 National Green Building Standard.
- Each contract with the developer/borrower that involves pre-development, rehabilitation or new construction will include 10 percent of the funds to be held as retainage until satisfactory completion of the project.
- Any new construction or substantial rehabilitation, as defined by 24 CFR 5.100, of a building with more than four rental units must include installation of broadband infrastructure, as this term is also defined in 24 CFR 5.100, except where the grantee documents that: (a) the location of the new construction or substantial rehabilitation makes installation of broadband infrastructure infeasible; (b) the cost of installing broadband infrastructure would result in a fundamental alteration in the nature of its program or activity or in an undue financial burden; or (c) the structure of the housing to be substantially rehabilitated makes installation of broadband infrastructure infeasible. For the purposes of this program, broadband service can either be hardwired or wireless, but it must be provided at 25 Mbps down and 3 Mbps up.

6.7 Project Lease Up

Multi-family developments assisted with **TAMFRP** funds are required to have a Project Tenant Selection Policy (TSP), Affirmative Marketing Plan, Harris County Tenant Protections Policy, and a schedule of leases and rents. The TSP must be:

- Written and displayed at the project in a common area;

- Consistent with the purpose of providing housing for families making 80 percent or less of AMI;
- Reasonably related to program eligibility and tenant's ability to perform under the lease;
- Chronological, so that tenants taken from a written waiting list are assisted in order; and
- Designed to give prompt written notice of the grounds for rejection to any lessee rejected based on income.

6.8 Tenant's Rights Policy Compliance

Multi-family developments assisted with **TAMFRP** funds are required to comply with Harris County's Tenant's Rights Policy. All Regulatory Agreements shall include the Tenant's Right exhibit (included in Appendix B) which requires compliance with the specific procedures regarding:

- Notices to Vacate
- Public Assistance
- Special Needs Tenants
- Eviction Proceedings
- Tenant Screening
- Property Conditions
- Tenant Relocation
- Tenant Access to Information
- Right to Participate in Tenant Organization
- Property Management

Regulatory Agreements must also include a requirement that the Harris County's Tenant's Rights Policy be provided to each tenant at lease initiation, each lease renewal, and at lease termination.

6.9 Affirmative Marketing/ Fair Housing

In accordance with federal regulations, HCCSD shall ensure that no person shall on the grounds of race, color, national origin (including limited English proficiency), religion, sex, sexual orientation, gender identify, age, familial status, or disability be excluded from participation in, be denied the benefits of, or be subjected to discrimination under or be denied access to the **TAMFRP**. HCCSD will take additional measures to affirmatively market the **TAMFRP** as follows:

- When necessary, HCCSD will make the program accessible to persons who are considered members of a protected class under the Fair Housing Act by holding informational meetings in buildings that are compliant with the Americans with Disabilities Act (ADA), provide sign language assistance when requested, and provide special assistance for those who are visually impaired when requested.

- HCCSD will provide reasonable accommodations as needed to make the program accessible to people with disabilities.

- HCCSD will retain documentation of all marketing measures used, including copies of all advertisements and announcements that will be available for public viewing upon request.

- HCCSD will use the Fair Housing logo in advertising, post Fair Housing posters and related information, and, in general, inform the public of its rights and obligations under Fair Housing regulations.

- HCCSD will engage community members in areas throughout Harris County as well as those in potentially impacted areas, adjacent communities to gather stakeholder input, disseminate important program information, and to answer questions. See Community Engagement and Marketing Plan for further details.

- **TAMFRP** information will be readily available and maintained on the HCCSD website, http://harrisrecovery.org/.

- Program information in the form of brochures will be available at public engagement and community outreach events coordinated and staffed by the HCCSD. Annually all marketing material will be reviewed and updated as needed. All information will be published in common languages predominantly used in the service area and target communities and will comply with the HCCSD Limited English Proficiency (LEP) policy.

In addition to marketing through widely available media outlets, HCCSD will take additional measures to promote the **TAMFRP** as follows:

- HCCSD will advertise with media outlets, which provide unique access for persons who are considered members of a protected class under the Fair Housing Act.

- Application process for each property will follow Fair Housing Regulations and Requirements.

6.10 Section 504

Pursuant to Section 1.20 (Accessible Design and Section 504) of the Affordable Housing Standards, HCCSD requires those requesting federal assistance for affordable housing to comply with all federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against the handicapped in any federally assisted program.

6.11 Minimum Wage Requirements

For all HCCSD building and multi-family contracts, contractors and subcontractors must pay their laborers and mechanics employed under these contracts no less than the $15 minimum prevailing wage rate or the minimum wage rate approved by Harris County Commissioners Court at the time the Regulatory Agreement is signed.

6.12 Minority and Women Business Enterprise (MWBE)

Federal regulations require that recipients should make every effort to use local business firms and contract with small, minority-owned and/or women-owned businesses in the procurement process. Specifically, recipients must take affirmative steps to use small firms, minority-owned firms, women-owned firms, or labor surplus area firms in federally funded activities (2 CFR 200.231).

All applicants must complete a HCCSD Minority Business Plan (to be downloaded from HCCSD's website) to implement with their project.

To comply with this plan, the applicant will be responsible for taking affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms including:

- Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

6.13 Project Completion and Release of Retainage Procedures

For applicable projects: when a project is completed, the information listed below must be submitted to allow for retainage (the last 10 percent of project costs) to be reimbursed. The items include:

- A Final Draw for Retainage (identical in form to the others and includes the final inspection report from the third-party inspector indicating that the project is complete);
- A Final Wage Compliance Report;
- A Certificate of Occupancy for the project (for new construction);
- A letter from the Architect certifying that the project meets the requirements of the Americans with Disabilities Act;
- A Certificate of Substantial Completion and AIA form that is signed by the owner, general contractor, and architect (for rehabilitation and reconstruction developments);
- A Lien Release from the general contractor to show that all subcontractors have been paid; and
- Any other documentation required by the Regulatory Agreement.

7. Rental Housing Project Management

HCCSD retains to right to not work with Developers and Owners who have a documented history of mistreatment of tenants or substandard property conditions. Developers partnering with HCCSD in the **TAMFRP** must have the ability to manage and coordinate the types of activities required in the development of multi-family housing including the following:

- On-going project management monitoring
- Construction management monitoring and site visits
- Progress Inspection
- MWBE Reporting

HCCSD also expects successful developers/applicants to assist the county with the tasks/deliverables outlined below:

7.1 Contract Amendments

- Prepare contract amendments
- Conduct underwriting
- Submit to Evaluation Committee for award revision

7.2 Payment Processing

- Prepare and submit required forms with each draw
- Release progress payments to developer
- Adherence to 2 CFR 200 Procurement Code
- Draw funds

7.3 Inspections

- Minimum Property Standards Closeout Inspection
- TDLR and FHA Inspections (if applicable)
- HQS Inspection (on affordable units only)

7.4 Closing

HCCSD will require documentation prior to, during, and after the closing of the purchased property.

- Retainage draw
- Certification of Occupancy
- Other required documents (related to AIA forms)
- Finalize application files

7.5 Lease Up Tracking

- Long-term affordability monitoring
- Conducting on-going monitoring visits (HQS)
- Review files

7.6 Capital Expenditures

The American Rescue Plan Act State and Local Fiscal Recovery Funds Final Rule, 31 CFR 35, clarifies that recipients may use funds for programs, services, and capital expenditures that respond to the public health and negative economic impacts of the pandemic.

Any use of funds in this category for a capital expenditure must comply with the capital expenditure requirements, in addition to other standards for uses of funds. Capital expenditures are subject to the same eligibility standard as other eligible uses to respond to the pandemic's public health and economic impacts; specifically, they must be related and reasonably proportional to the pandemic impact identified and reasonably designed to benefit the impacted population or class.

No preapproval from the U.S. Department of the Treasury is required for capital expenditures.

HCCSD must complete and meet the requirements of a written justification for capital expenditures equal to or greater than $1 million. For large-scale capital expenditures, which have high costs and may require an extended length of time to complete, as well as most capital expenditures for non-enumerated uses of funds, HCCSD will submit their written justification as part of regular reporting.

8. Records Management

To ensure accurate record keeping and reporting, HCCSD has developed a records management plan for the **TAMFRP**. These operational policies were developed to support HCCSD's commitment to compliance administration of the program.

Record Retention Period

HCCSD will abide by the State of Texas Record Retention Policy since it is currently the most restrictive of local, federal, and state regulations: Seven (7) Years past the close out of the Grant

9. Confidentiality Policy

The HCCSD confidentiality policy covers employees, agents, consultants, officers, or elected officials or appointed officials of the Harris County ARPA Affordable Housing Programs, and any designated public agencies, or of subrecipients that are receiving funds under this ARPA SLFRF grant who exercise or have exercised any functions or responsibilities with respect to ARPA SLFRF activities.

In order to protect the confidentiality and privacy of those seeking services and to hold confidential all personally identifying or individual information, communications, observations, and information made by, between, or about service participants, including the identity of service participants, HCCSD and all agents, employees, consultants and volunteers are charged with maintaining the confidentiality of service participants as outlined in HCCSD policies and in federal and state law.

9.1 Protection of Confidential Information

HCCSD and all agents, employees, consultants, and volunteers shall not disclose any personally identifying information (PII) or individual information collected in connection with services requested, utilized, or denied through its programs or reveal any individual client information without the informed, written, reasonably time-limited consent of the person about whom information is sought, or as allowed by law.

10. Appeals

10.1 Grievance Policy/ Procedure

HCCSD is responsible for responding to complaints and appeals in a timely and professional manner. A grievance and appeals procedure will be afforded to applicants to provide a quick and efficient system for resolution of concerns or disputes that applicants may have with the procedures followed and services provided by HCCSD. The appeals procedure will include both an informal and a written grievance process which may include but not be limited to informal hearings, third-party review, and director approval. HCCSD will keep a record of each complaint or appeal that it receives to include all communications and their resolutions. Complaints alleging violation of fair housing laws will be directed to the U.S. Department of Housing and Urban Development for immediate review (see Grievance and Appeals policy). Complaints regarding fraud, waste, or abuse of government funds will be forwarded to Treasury Office of the Inspector General: https://oig.treasury.gov/report-fraud-waste-and-abuse

10.1.1 Complaints

When a complaint or appeal is received, a representative will respond to the complainant or appellant within ten (10) business days where practicable. For expediency, the HCCSD shall utilize telephone communication as the primary method of contact; however, email and postmarked letters will be used as necessary.

10.1.2 Responsibilities

HCCSD will identify staff within their program tasked with handling all applicant and participant inquiries. These staff will be responsible for:

- Determining whether or not complaints and appeals relate to the business or authority of Harris County,
- Ensuring that a response to all complaints and appeals are within the appropriate time frame (a response should be provided within 10 working days of the receipt of the complaint)
- Ushering all complaints and appeals through to a resolution.

HCCSD has a Grievance and Appeals policy that addresses handling incoming complaints, including a complaint escalation process in order to ensure that complaints are handled at the earliest stage in the process. Please see the Consolidated Plan on the HCCSD Website https://csd.harriscountytx.gov/Documents/Section_2_Citizen_Participation_Plan.pdf.

10.1.3. Documentation

Documentation for each complaint or appeal will be maintained. Each file will include the following:

- Contact information for the complainant;
- Initial complaint;
- Address and HCCSD assigned project number (if applicable);
- Any communications to and from complainant or appellant;
- Results of the investigation, together with any notes, letters, or other investigative documentation;
- The date the complaint or appeal was closed; and
- Any other action taken.

11. Compliance & Monitoring

HCCSD will establish a monitoring/oversight program to ensure that **TAMFRP** assistance is being provided to eligible households, for eligible properties, and receiving the proper funding/assistance amounts.

11.1 Conflict of Interest

Section 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards or "Super Circular" provide that no employee, officer, or agent shall participate in the selection, award, or administration of a contract supported by Federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when an employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in the firm selected for an award.

Conflicts of Interest must be disclosed prior to commitment of TAMFRP funding. This program will comply with the Affordable Housing Standards Section 1.11 (Conflict of Interest).

11.2 Monitoring

During the affordability period, HCCSD will monitor each project for financial stability, status on annual payments due, as well as compliance with the Harris County Affordable Housing Standards and LURA.

This will include:

- Regular review of audited financial statements
- Annual inspections of property to assure that the Harris County Affordable Housing Standards are maintained
- Verifying lease-related documentation/actions to demonstrate compliance with

Affirmative Marketing and Fair Housing requirements under local, state, and federal rules in tenant selection/housing

- Verifying income documentation and eligibility of persons certified/assisted
- Certifying/approving rent rates and utility allowances within limits set by local, state, or federal agencies, as applicable to each project

HCCSD will maintain accurate Affordable Rental Housing Program files and records for general administration activities for each development and tenant for the duration of the **TAMFRP** and during the affordability period. Such files will be open for inspection by funding-source representatives. Files will be made available upon request to Harris County Commissioner's Court.

11.3 Monitoring Fee

HCCSD has implemented a Monitoring Fee Policy for multi-unit rental projects. This fee is an annual fee throughout the affordability period to allow for the long-term monitoring of the project during the affordability period. The fee is $50.00 per County-assisted unit annually for each year of the affordability period. For more information regarding the monitoring fee, please see HCCSD's Funding Guidelines Page at https://csd.harriscountytx.gov/Pages/rfq.aspx. Depending on the nature of the acquisition transaction, HCCSD may elect not to charge a monitoring fee.

The monitoring fee will be accounted for semiannually as program income.

11.4 Program Income

Any program income earned as a result of **TAMFRP**-funded activities will be subject to the rules outlined in 2 CFR 200.307. Program income received before closeout of the ARPA SLFRF grant will be subject to Treasury ARPA SLFRF requirements.

11.5 Close-out

HCCSD will ensure records are complete, that all requirements are adhered to and that the county have performed all monitoring processes. HCCSD will create project and grant closeout checklists that will be maintained with the project file.

11.6 Anti-Fraud and Compliance Policies

HCCSD will aggressively investigate all allegations of misconduct, fraud, waste or abuse regarding eligibility and the disbursement of award amounts to applicants. Information in both English and Spanish has been posted on the HCCSD website.

11.7 Changes, Waivers, and/or Conflicts

HCCSD, Harris County's vendors, owners, developers, and subrecipients may not change, modify, waive, or revoke all or any part of these Guidelines without the written approval of the Harris County Commissioner's Court.

11.8 Contact

Website: www.harrisrecovery.org Email: rebuildharris@csd.hctx.net Phone Number: 832-927-4961

12. Change Log

HCCSD will provide a change log listing all substantial changes to the TAMFRP Guidelines.

Appendix 1 –Capital Needs Assessment

All **TAMRFP**-assisted developments must submit a capital needs assessment that estimates the useful life of each major system. The CNA will determine the work to be performed and identify the long-term physical needs of the project. If the remaining useful life of one or more major system is less than the applicable period of affordability, a replacement reserve must be established with adequate monthly payments made to repair or replace the systems as needed.

The CNA must be accompanied by the Scope of Work and Cost Estimate Analysis.

<u>Capital Needs Assessment Guidelines</u>

The CNA must be completed by an independent, third-party engineer or architect approved by HCCSD. At minimum, the CNA should include the following:

• Assessment of prior, ongoing or chronic repairs, maintenance issues, and deficiencies documented through interviews with appropriate onsite personnel and maintenance and repair records;

• Documentation of an onsite visit and physical inspection of both the interior and exterior units and structures on the property;

• Assessment and recommendations regarding the presence of environmental hazards and potential efficiency or other mitigation considerations, in accordance with these standards;

• Assessment and recommendations as to the reasonability of the proposed budget as it relates to the work to be performed, including but not limited to an analysis of the: (1) Development Site; (2) Structural Systems; (3) Interior Systems; and (4) Mechanical, Plumbing, Electrical, HVAC, and Safety (e.g., fire protection, elevator requirements, safety lighting) Systems and related requirements; and

• Recommendations regarding the proposed budget as it relates to the conclusions of the assessment.

All components of major systems reaching the end of their useful life or requiring critical or urgent repair or replacement, must be identified. If the remaining useful life of any major system is less than 50% of the expected useful life, immediate rehabilitation (replacement or repair, as appropriate) is required. If the remaining useful life of any component of the major systems is less than the term of the affordability period, replacement reserves with adequate payments being made as required to finance future repair(s) or replacement(s) is required.

Appendix 2 –Scope of Work and Cost Estimate Analysis

All **TAMRFP**-assisted multi-family developments must submit a scope of work and cost estimate analysis for the proposed rehabilitation project. This document must provide a detailed assessment of the current conditions of the property and scope of work for the proposed repairs, replacements, and improvements of the multifamily property. The analysis should be completed by an a qualified, independent third-party not affiliated with the applicant/ developer. This report may be completed by HCCSD's Third-Party Cost Estimator.

<u>Guidelines for the Scope of Work and Cost Estimate Analysis</u>
The analysis must evaluate the sufficiency of the applicant's scope of work and provide an independent review of the applicant's proposed costs. The resulting report must include the applicant's scope of work, applicant's cost estimates, development cost schedule, high quality color photographs of the subject property (interior, exterior), neighborhood and comparable properties.

At minimum, the report must provide discussion and analysis of the following:
(1) Descriptions of Current Conditions;
(2) Descriptions of the Scope of Work;
(3) Useful Life Estimates;
(4) Code Compliance;
(5) Program Rules;
(6) Accessibility Requirements;
(7) Reconciliation of Scope of Work and Costs; and
(8) Cost Estimates.